

REMARKS

In the Office Action, claims 1-3 and 5 were rejected under 35 U.S.C § 112 first paragraph because the specification was said to not enable producing a test result and comparing the test result to any pre-capture result. With the present amendment, claim 1 has been amended to replace the indefinite article referring to comparing the test result to "a" pre-capture result with the definite article so that the test result is now compared to "the" pre-capture result.

Claims 1-3, 5, 15, 17-19 and 25 were also rejected under 35 U.S.C § 112 first paragraph because it was asserted that independent claims 1 and 17 are written such that the subject matter of the claims were not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. In particular, the limitations in claims 1 and 17 directed to generating final image data by modifying a second set of image data was said to not be supported in the specification. Applicants respectfully dispute this assertion.

On page 7, line 27 to page 8, line 12, the specification describes how image data for a second frame of light is processed by a post-capture process control component 418 that invokes one or more image processing components. Some of the image processing components change the image data as they process it. The post-capture processing components produce a final set of image data. Thus, in the specification, the inventors have clearly described that image data for a second frame of light can be changed to produce the final set of image data.

While claims 1 and 17 include a number of limitations taken from the discussion of FIG. 6 on pages 11 and 12, it is clear that the method of FIG. 6 could be integrated into any of the methods of FIGS. 2, 4 and 5. Applicants first note that in

the specification, the methods of FIGS. 4 and 5 are described as being "alternative methods of capturing images." However, such language is not used when describing FIG. 6. Instead, the language "Under some embodiments of the present invention, post-capture process control 418 invokes a verify pre-capture results component 432 to verify the results from one or more of the pre-capture components before utilizing those results." (See Page 11, line 5) As a result, the method of claim 6 is not limited as an alternative to the methods of 2, 4 and 5. Instead, since the method of claim 6 is described with reference to post-capture process control 418 of FIG. 3, those skilled in the art would recognize that the method of FIG. 6 could be added as an additional step to any of the methods of FIGS. 2, 4 and 5.

This is further supported by the fact that FIG. 6 does not show steps akin to steps 302, 304, 306 or 308 of FIG. 2. As such, those skilled in the art would understand that the method of FIG. 6 could simply be added as part of performing the post-capture processing shown as step 310 in Fig. 2, step 494 in FIG. 4 and step 532 in FIG. 5.

Further, all of the elements of claims 1 and 17 were clearly within the possession of the inventors at the time the application was filed. The inventors clearly knew that the final image data could be formed by modifying image data from a second frame of light, that a pre-capture result could be formed by performing a pre-capture processing function on a first set of image data and that the pre-capture processing function could be performed on a second set of image data to produce a test result that could be compared to the pre-capture result.

Since the inventors clearly had possession of all of the elements of claims 1 and 17 at the time the application was filed and since the description of FIG. 6 shows that the method was not an alternative to the methods of 2, 4 and 5 but instead could be used with some of those embodiments, claims 1-3, 5, 15, 17-19 and

25 comply with the written description requirement of § 112.

Claims 1 and 3 were rejected under 35 U.S.C § 102(b) as being anticipated by Miyamoto et al. (U.S. Patent 5,189,519, hereinafter Miyamoto). In the Office Action, it was asserted that Miyamoto shows the step of performing at least one pre-capture processing function on a portion of the second set of image data to produce a test result and comparing the test result to a pre-capture result.

With the present amendment, claim 1 has been amended so that the test result is compared to "the" pre-capture result. Applicants respectfully submit that Miyamoto does not show a step of comparing the test result to the pre-capture result.

In the Office Action, it was said that the test result is compared to the reference predetermined range. The Office Action also asserted that the pre-capture result formed from the first set of image data is the exposure value measured by light measuring element 28 is the pre-capture result. Thus, under Miyamoto, the test result is not compared to the pre-capture result formed from the first set of image data but instead is compared against some predetermined range. Under claim 1, as amended, the pre-capture result that is formed from the first set of image data is the result that is compared against the test result. Thus, Miyamoto does not show the limitations of claim 1.

Since Miyamoto does not show the step of comparing the test result to the pre-capture result formed from the first set of image data, it does not show the invention of claims 1 or 3. As such, claims 1 and 3 are patentable over Miyamoto.

#### CONCLUSION

In light of the above remarks, claims 1-3, 5, 15, 17-19 and 25 satisfy the written description requirement and are enabling under 35 U.S.C § 112 and claims 1 and 3 are patentable over Miyamoto. Reconsideration and allowance of the claims is respectfully requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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